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NOTES OF THE WEEK

Runaways From Borstal

Probably most boys, if they had the choice, would prefer a sentence of imprisonment to one of borstal training. This, as was said by the Lord Chief Justice, in *R.* v. *Pool* (*The Times*, December 3), is because a borstal sentence is indeterminate and the offender thinks he would get a short sentence of imprisonment with the usual remission.

In the case before the Court of Criminal Appeal, the appellant, aged 18, had absconded three times from a borstal institution to which he had been sent after committing a number of offences. He was appealing against a sentence of 2½ years' imprisonment passed on him at West Kent quarter sessions for garage breaking with nine other offences taken into consideration. Through his counsel he had asked to be sent to prison.

In the course of delivering the judgment of the Court, Lord Goddard said it seemed that such a sentence on a boy of 18 was severe, although boys of that age were sent to a boys' prison. So far as the boy was concerned borstal had been a failure. Boys often asked to be sent to prison instead. It was not what the boy would like, but what the Court thought he should get. The only way of making it clear to these borstal boys that it did not pay to run away was by passing a fairly long prison sentence. The Court dismissed the appeal.

Beginning to Try the Information

By s. 24 of the Magistrates' Courts Act, 1952, it is provided that "Except as provided in subs. (5) of s. 18 of this Act, a magistrates' court, having begun to try an information for any indictable offence summarily, shall not thereafter proceed to inquire into the information as examining justices." It was decided in *R.* v. *Craske, ex parte Commissioner of Police of the Metropolis* [1957] 2 All E.R. 772, that where a defendant had consented to be dealt with summarily under s. 19 of the Act and had pleaded not guilty, but no evidence had been heard, it was right for the magistrate to allow the defendant, who was legally represented at the adjourned hearing, to withdraw his consent to be tried summarily, the hearing of the information not having been begun.

A similar question was raised in *R.* v. *Ibrahim and Others* (*The Times*), December 11, in the Court of Criminal Appeal.

The appeals were against convictions at the Central Criminal Court on charges of wounding with intent to do grievous bodily harm. The appeals were on the ground that the defendants were wrongly committed for trial. The Lord Chief Justice, in the course of his judgment, said it was argued that they had elected to be tried summarily when they were brought before the magistrate, and he had "begun to try" the case, and therefore, under s. 24, *supra*, he was bound to continue the trial and could not change his mind. The original charge, unlawful wounding, was one which could be tried summarily and both the prosecution and the defence agreed to this course. The facts were told to the magistrate, but after the case had been opened, the magistrate said he would not try the case summarily and he committed the men for trial on the charge of wounding with intent. This offence, against s. 18 of the Offences Against the Person Act, 1861, is not triable summarily. Lord Goddard referred to *R.* v. *Craske, supra*, and said he was quite satisfied that in a magistrates' court the trial did not begin until the magistrate began to hear the evidence. In the present case the magistrate decided to convict for trial before he heard any evidence. The convictions must be affirmed.

Devlin and Pearson, JJ., delivered concurring judgments.

Separate Judgments

It must often happen that the same Judges, having sat together as a Divisional Court proceed to hear cases as the Court of Criminal Appeal. Whereas in the Divisional Court the Judges deliver separate judgments, this is unusual in the Court of Criminal Appeal where it is usual for one judgment to be delivered as that of the Court. By s. 1 (5) of the Criminal Appeal Act, 1907, "Unless the Court direct to the

contrary in cases where in the opinion of the Court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the members of the Court, the judgment of the Court shall be pronounced by the President of the Court or such other member of the Court hearing the case as the President of the Court directs and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court."

In *R.* v. *Ibrahim and Others, supra,* after the separate judgments had been delivered, Lord Goddard explained that the Court had overlooked the fact that it was the Court of Criminal Appeal and not, as in *R.* v. *Craske* which they had been discussing, the Divisional Court. He referred to the Criminal Appeal Act and its provision for a single judgment, and said the Court had better say in the present case that it considered it convenient to deliver separate judgments.

Changes in New Zealand Criminal Law

From the Public Relations Branch of the New Zealand Government we learn that a Bill has been prepared which will replace the present criminal code of the country which has remained largely unaltered for the past 60 years.

A number of new crimes are introduced, punishments for some existing crimes are increased and others reduced. Among the new crimes are car conversion with intent to commit a crime or avoid arrest, and possessing instruments for car conversion.

The death penalty is retained, but the law of homicide undergoes certain changes, apparently following the lines of the English Homicide Act in some respects, including a provision about diminished responsibility. As to provocation, the Bill provides that murder may be reduced to manslaughter where the provocation consists of a course of conduct which was likely to deprive the offender of self-control and did in fact do so.

Urine Test Without Specific Caution

We are indebted to a correspondent for an account of the case of *R.* v. *Garside* tried before Streatfeild, J., at Sheffield Assizes, in which an important point on the admissibility of certain evidence was raised.

The defendant was charged with causing death by dangerous driving and with driving a motor vehicle while under the influence of drink to such an extent as to be incapable of exercising proper control. It was stated that at the police station he was interviewed by the police surgeon and signed a form consenting to a medical examination. After the examination the police surgeon obtained a sample of the defendant's urine, but did not first caution him that the results of the examination of the urine might be given in evidence. Before the justices it had been submitted that the evidence of the analyst was inadmissible, and his deposition was not taken. Notice of additional evidence was served. At the Assizes objection was taken to the analyst's evidence on the ground that the defendant had not been cautioned. The point was argued in the absence of the jury.

The learned Judge referred to *Archbold,* 33rd edn., para. 688, where cases are cited establishing the principle that if a confession cannot be admitted in evidence because, for instance, it was obtained by some promise or threat, yet facts discovered in consequence may be given in evidence. After hearing counsel for the defence the Judge said the objection was wholly artificial. He thought the taking of a sample was perfectly admissible on ordinary principles, and he ruled that the evidence was admissible.

It seems clear, therefore, that even if there ought to have been a specific caution to the defendant before the sample of urine was taken (which was not laid down by the learned Judge), the facts discovered as the result of the analysis were admissible in evidence.

Medical Evidence

A defendant may refuse to submit himself to medical examination, though this appears to be unusual in this type of case. It is of course open to him to refuse to walk along a dotted line or to say " truly rural," or to try to carry out other tests suggested by the doctor. That may not be to his advantage in the end. However, in the case at Sheffield Assizes the defendant had signed a form of consent to a medical examination.

On this question of medical examination, on behalf of the police and the evidence thus obtained, it is relevant to recall the observations of Humphreys, J., in *R.* v. *Nowell* [1948] 1 All E.R. 794; 112 J.P. 255. That case decided that the evidence of a medical man who has examined the defendant at the request of the police is admissible, even where he has used persuasion to overcome the defendant's refusal to be examined. Humphreys, J., said, " His evidence should be accepted as that of a professional man giving expert evidence with a desire to assist the court."

Double White Lines

We commented on the proposal to use double white lines when the experimental scheme was first suggested. The decision to introduce the scheme generally has now been taken, and it is proposed, in due course, to make failure to observe the indication given by the double line an offence. In the first instance seven miles of the Portsmouth road between Esher and Ripley and five miles of the London–Folkestone road between Wrotham and West Malling have been duly marked and signposted to serve as models. A Ministry of Transport and Civil Aviation press notice states that " they show the final standard version which will now be nationally applied. Motorists will find on these sections bold illustrative signs which tell them exactly what the lines mean."

Experience with the experimental scheme has shown that in some cases the length of the double white line can be reduced without any loss of safety, and arrows have been marked on the road in advance of the continuous line to direct drivers to the left of it. The idea is to have a system in this country which is the same as that used in a number of countries on the continent of Europe, and it is hoped to conclude an agreement which will have the effect of making the system of markings uniform in all countries which sign the agreement.

When the double line system comes into force single white lines will be of two kinds only, neither of them continuous. The first type will have small gaps in it and will serve as an indication that visibility is restricted and that caution must be exercised ; the second type will be used on straight sections of roads to segregate traffic into lanes. The gaps in the line will be much longer.

It would seem that the success of the double white line scheme must depend on the extent to which drivers can be persuaded, or compelled, to comply with its requirements, and it is most important, therefore, that observance of those requirements should become just as much a habit as is stopping at a red traffic light or a policeman's signal. Whether this standard of perfection is possible of achievement remains to be seen.

Councillor Tenants

We have from time to time been asked questions about the position in regard to voting of members of a local authority, which owns the houses in which they live. A local newspaper now reports that six town councillors at Stourbridge had taken part in debates about arrears of rent, and the service of notices to quit on council tenants. It might happen sometimes that a tenant who was a councillor would neither benefit or suffer from a decision about another tenant, and the newspaper account does not give enough information for us to form an opinion of our own about the application of s. 76 of the Local Government Act, 1933, in the Stourbridge cases.

When the issue was raised it was raised in general terms. A majority of the council decided that the action of the six tenants who were councillors ought to be brought to the notice of the Director of Public Prosecutions. The Deputy Director wrote a letter, which as a general statement of the law is clearly right, leading (apparently) to the conclusion that legal proceedings would not be taken on this occasion but might be in future.

The councillors affected complained that s. 76 would prevent their discussing matters involving their constituents who were council tenants, and the town council are said by the newspaper to be hoping that the Association of Municipal Corporations will press for an amendment of the section.

We shall be surprised if the Association does so. It is always possible to apply to the Minister of Housing and Local Government under subs. (8) for a dispensation enabling councillors to discuss business which affects them personally. Sometimes the dispensation does not go beyond discussion, with the result that a decision on the business is reached by the councillors who have no pecuniary interest. Sometimes, and we think more often, the dispensation has extended to voting as well as to discussion.

There is nothing new about the disability applied to council tenants. In some cases it would have arisen before 1933 under the Municipal Corporations Act, 1882, or the Local Government Act, 1894, in the form not of mere disability but of disqualification.

Disqualification was removed, but disability (for voting though not for discussion) was expressly imposed by s. 125 of the Housing Act, 1925, which was itself an amalgamation (upon consolidation) of enactments going back to s. 88 of the Housing of the Working Classes Act, 1890. The disability now brought to notice at Stourbridge, which occurs under s. 76 of the Local Government Act, 1933, superseding the earlier provisions, has thus existed in principle for nearly 70 years. It is plainly right. There is no more reason for allowing councillors who are tenants of houses to enjoy a privileged position than for allowing the privilege to councillors who are tenants of shops owned by the council, or who stand in any other contractual relation to the council.

DEATH OF LICENSEE PENDING CONFIRMATION OF ORDER FOR ORDINARY REMOVAL

By T. J. SOPHIAN, *Barrister-at-Law*

It is settled law, that where a person applies to the licensing justices for the grant of a *new* licence, and unfortunately dies, before the confirmation of the licence, his personal representatives cannot apply for confirmation of the licence, or for its transfer. The basis of this decision is that a licence does not come into being at all, until it has been confirmed, so that there never is a licence in existence which can be confirmed at the instance of the personal representatives or be transferred.

Death of Applicant for New Licence Prior to Confirmation

Thus in *R.* v. *Richmond Confirming Authority, ex parte Howitt* [1921] 1 K.B. 249, T, who was the assistant secretary of L & Co., Ltd., applied on March 2, 1920, to the justices for the grant of a full licence in respect of certain premises occupied by the company as a restaurant. The application was opposed by H the licensee of other premises, but it was granted. On March 25, 1920, T applied to the confirming authority for confirmation of the grant, which was again opposed by H. The justices were equally divided and the grant to T accordingly was not confirmed. On May 6, T made an *ex parte* application to the High Court for an order directing the justices to hear and determine his application for a confirmation of the licence. On July 5 the confirming authority sat again to deal with the application, but in the meantime T had died. The confirming authority (which included all the justices who had granted the licence) were informed of this fact, and of the further fact that T's executrix had executed a declaration of trust of all the interest which T had in the licence in favour of L & Co., and they were asked to confirm the grant, but to substitute for T's name the name of B who was the secretary of L & Co. The grant to B was confirmed, but on application to the High Court, that Court held that the confirming authority had no jurisdiction to confirm the grant, and the order made by the confirming authority was quashed. The ground of this decision was that upon T's death, there was no longer any licence in existence to confirm, and that the purported confirmation of the grant in the name of the substitute, was an usurpation of jurisdiction on the part of the confirming authority.

Is the Howitt Case to be Extended?

The question whether the principle of the *Howitt* case could be extended to the case of a grant of an ordinary removal of a licence, where the applicant died before the confirmation of the order, came up for consideration in the recent case of *R.* v. *Confirming Authority of the Derby Borough Justices, ex parte Blackshaw* [1927] 2 All E.R. 823.

There the holder of an off-licence, who was also the manageress of the company owning the property in respect of which the off-licence had been granted, applied on February 7, 1957, for an ordinary removal of the licence to other premises.

Section 25 of Licensing Act, 1953

Section 25 of the Licensing Act, 1953, deals with the case of an ordinary removal, and provides by subs. (2) that the application shall be made " by the person wishing to hold the licence after removal." Under subs. (4) of s. 25, an ordinary removal is not to be granted, unless the justices are satisfied in the case of an off-licence, that no objection to the removal is made " by the holder of the licence, or any person other than the owner of the licence, or as the case

may be, other than the holder of the licence, whom the justices consider to have a right to object to the removal."

No objection, it is to be observed, was made in this case.

Subsection (5) of s. 24 is very material for it provides that "subject to the preceding provisions of (the) section, licensing justices shall have the same power to grant an ordinary removal as they have to grant a new justices' licence." Accordingly the justices are required to consider, in connexion with an application for an *ordinary removal*, the same matters that have to be regarded in connexion with the application for a *new* licence such as for instance, the sufficiency or otherwise of the existing licensed premises or the district to which the licence is sought to be removed.

Section 22 of the 1953 Act

Again reference must be made to s. 22 of the Licensing Act, 1953. Under subs. (1) of this section, "where the holder of a justices' licence dies . . . s. 120 of the Act shall not prohibit the sale or exposure for sale of intoxicating liquors by the personal representatives . . . during a period ending with the next transfer sessions, or, if the next transfer sessions are held within 14 days after the death, the next transfer sessions but one." The licensee in the above case died on March 4, 1957, and the application was made to the confirming authority within 15 days thereafter, during which period there had not been a transfer session, and the licence had not been transferred.

Material Dates

The material dates were accordingly as follows:

February 7, 1957: Application by licensee HS for removal, granted, subject to confirmation.

March 4, 1957: HS died.

March 29, 1957: Next meeting of the confirming authority after the grant of removal. Executrix of HS applied for confirmation of the order of removal. This application was refused. The confirming authority, however, intimated that they would have confirmed the order on the merits, but they considered that they had no jurisdiction to confirm because of the death of HS, the applicant for the removal. It is to be observed that at this date, the licence had not been transferred to the personal representative.

May 9, 1957: Next transfer sessions after date of death of licensee HS. The licence was transferred at these sessions to the executrix of HS.

A grave injustice, therefore, as the Court pointed out, would have been suffered by the estate of the deceased licensee, if the personal representatives had to wait until the following year when the confirming authority met again before they could apply for the confirmation of the order of removal, for, it is to be observed in passing, that the meetings of the confirming authority took place only once a year. Accordingly the executrix of the deceased licensee now applied to the High Court for an order directing the confirming authority to consider the application for confirmation of the order for the ordinary removal of the licence.

Effect of Death of Licensee on Licence in Existence.

It becomes necessary to consider the effect of the death of a licensee in the case of a licence already in existence, as distinct from a new licence which does not come into existence at all until it has been confirmed.

Case Law

There are two important cases which have a bearing on this question.

In *McDonald* v. *Hughes* [1902] 1 K.B. 94, a licensee died and the executrix continued to carry on the business under s. 3 of the Licensing Act, 1872, which corresponds with s. 22 of the Licensing Act, 1953. The executrix was charged with permitting gaming on the premises. It was held that she stood in the shoes of the deceased licensee. It was stated in the judgment of the Lord Chief Justice, that after the death of a licensee, the licence continues to exist for a certain time provided that the representative of the deceased licensee applies for a transfer at the next transfer sessions if held more than 14 days after the date of the death. In the meantime the representative of the deceased is entitled to act as if he or she were holding the licence during that period.

This case therefore determines that the licence does not cease upon the death of the licensee, but continues for a limited time as if it were vested in the personal representatives, until it is properly transferred at the next sessions.

In the second case of *Cooke* v. *Cooper* [1912] 2 K.B. 248 the justices had refused to renew a licence, and the licensee who had appealed died before the hearing of the appeal. The question was raised whether the executrix was entitled to continue the appeal. The justices thought not, but the Divisional Court disagreed. The Court pointed out once again that on a licensee's death, the licence does not become absolutely void, but remains in existence for the purpose of the deceased licensee's representatives getting a renewal in his place, and being held liable if they carry on the business in breach of the Licensing Acts.

Conclusion

Applying these decisions, the Court in *ex parte Blackshaw* emphasized that the licence continued in existence after the licensee's death, *for the purpose of the protection of the licence* itself. The personal representatives were entitled not only to apply for a transfer but even to maintain an appeal. And an existing licence stood in these respects on an entirely different footing from a new licence, which had not yet come into being, and was awaiting confirmation.

Accordingly, in the view of the Court the personal representatives were entitled to apply to the confirming authority for confirmation of the order of removal which had been granted to the licensee during the latter's lifetime.

SAVING POLICE TIME

BY A SENIOR POLICE OFFICER

The introduction of the Magistrates' Courts Act, 1957, will be welcomed by all police officers because of the time which will be saved by members being excused court attendance in appropriate cases.

The measures permitted under the Act ought now to provoke further ideas as to how more men can be kept on beat duty, it being generally agreed that the constable on the beat is the finest crime prevention agent. Is it not time, for instance, that thought was given to reducing the amount of "paper work" which a constable has now to complete? Many forces have introduced various types of forms to reduce the time wasted by men writing laboriously in the station and these have much to commend them, but when the occasion arises in which a report *is* needed, and a form is inappropriate, could not the report be abbreviated?

Let us discuss some examples, basing them on procedure now followed in most forces.

There has been a case of dangerous driving. A witness,

who has not yet been seen, lives in another police district, therefore the constable handling the case has to take steps to get him interviewed. This constable spends perhaps 45 minutes or more in the station setting out the facts fully in the usual way and suggesting to his senior officer what action should be taken. The senior officer suitably endorses the report and it is then dispatched.

The inquiry is subsequently made by the " investigating " force and a constable prepares his report, often at some length, in reply.

It is suggested that if these reports were abbreviated in the same manner as a telegram, a great deal of time would be saved. Hypothetic examples of what the writer has in mind are as follows:

Constable Initiating the Inquiry

REPORT

Subject — Dangerous Driving

Facts: 12.30 *p.m.* Sunday, June 18—motor car ABC 123 collided with motor car CAR 624—junction False Street and High Street—alleged ABC 123 came out False Street—no warning given—collided off side CAR 624.

Request: Above witnessed by John Jones, 24 Frank Street, Notown—(rider of motor-cycle CUP 142)—was following CAR 624. Unable to obtain statement at time. Call on—obtain statement. URGENT.

Attention of Chief Constable, Notown.

Constable Making the Inquiry at Notown

REPORT

Subject — Dangerous Driving

Facts: Saw witness Jones 2.30 *p.m.* Thursday, June 22—home address. Took statement (attached).

Request: Forward to Chief Constable ——.

The above abridged versions of the usual types of reports contain all the information required and, because they are short, the constables concerned will be able to spend more time on the beat.

Now let us see what can be done to abbreviate a typical report submitted by a constable relevant to a matter which concerns his own chief constable. Supposing a wall has collapsed on the constable's beat and that he has had to call for help from the local highways department to remove the débris from the road. A normal report on this would probably cover about one side of a foolscap report form, taking possibly 20 minutes to half an hour to write.

An abbreviated version, as follows, would only take a few minutes:

REPORT

Subject — Wall collapses on to roadway

Facts: 12.30 *p.m.* Tuesday, July 10—on duty High Street—saw wall collapsed side Smith's shop (No. 42)—débris partly blocking roadway.

Action Taken: Highways dept. called. Débris removed. Owner of wall informed.

Further Action Suggested: File report.

With a little thought, one can imagine how other reports could be abbreviated in the same way, and valuable time thus saved.

There must, of course, be disadvantages in such an idea. One possible fault which occurs to the writer is that if men are encouraged to abbreviate their reports in this way they will be unable to compose a readable, full length report, when the occasion arises. One finds already that the standard of ability to write among the younger members of the service is not as high as we would like it to be, and the standard might be lowered still more by men being encouraged to abbreviate.

Another possible disadvantage one can forsee concerns *offence* reports, *i.e.*, when a report contains a constable's evidence on which a prosecution is to be based. If such a report is abridged, the constable might also abbreviate his evidence in court, which would be most undesirable, although one can assume that his pocket book should contain enough information for him to give the facts in the witness box in as complete a manner as the court would require them.

But, if these *are* disadvantages, would they not be offset, particularly in those areas where forces are still under strength, by the number of extra " man hours " which will be available for the all-important beat patrols ? And, in the interests of crime prevention, a policeman on the beat is surely worth two in the station !

BRITAIN'S ONLY OPEN CENTRAL PRISON

[CONTRIBUTED]

Leyhill prison is situated on what was once a United States Army camp in beautiful Gloucestershire countryside. Opened 11 years ago, its experiments have been watched with interest by all concerned with penal treatment.

If the orthodox prison means high walls, separate cells and clanging keys, the visitor to Leyhill is surprised to find that the only cells are in a special punishment block—and they have never been used. This is a measure of the successful application of the principle — rehabilitation rather than society's revenge.

To create closer understanding with the outside industrial and commercial world, the governor, Mr. Peter Jones, invited, not the general public, but appropriate persons and interested parties, to view a three-day exhibition staged by prisoners themselves. To avoid the sensation-monger or the morbid-minded, Mr. Jones wisely restricted the invitation to trade union officials, employers and magistrates. The major problem of such a prison is the placing of the men in suitable employment on their release. Intimate co-operation from employers and trade unions is an essential concomitant of rehabilitation.

The whole atmosphere of the prison is much akin to that of army life and discipline—huts, gardens, canteens, workshops, class-rooms, library and stores. Talking to the men shows that they are no ordinary prisoners, many being of the professional and executive grades before entering. Solicitors, writers, teachers, all sections of contemporary society are among the 270 men. They are star prisoners, serving long sentences of three years or more, for committing serious offences. Many are first offenders.

Housed in six huts, impressively fitted out by the prisoners on the painting and decorating courses, the exhibition had many examples of first class workmanship. High quality furniture, electrical installations and wiring, leather work, paintings, marquetry, all were proudly displayed.

Bespoke tailoring, a new feature for any British prison,

shoemaking, building construction, all up to City and Guilds professional standards, and created for the most part by men who had not done this kind of work in ordinary life, pointed to the obvious moral that all men have latent talents and abilities of which they are not normally aware.

For the first time these men had adapted themselves to a new form of creative activity and in so doing had surprised themselves—and their wives—when they came to visit them. To see estate agents becoming bakers, lawyers training as draughtsmen, teachers becoming compositors, and all up to the required craftsmanship standards, is an achievement that augurs well for future re-settlement if given the opportunity by society.

Prison Magazine

Because of a personal interest, it was the printing and publicity sections that attracted my attention. The printing shop displayed government forms, colourful prison programmes and handbooks. But Leyhill has need to be proud of its own house organ—optimistically entitled *New Dawn*, and ably edited.

Originally this magazine was a mere wall-sheet of the type used in the Forces and in industry. Earlier this year it was transformed into a large-sized periodical, produced on an old Gestetner duplicator. Its hand-drawn covers are coloured by hand in the arts class.

Distributed monthly, this magazine is of the same standard as the average staff magazine produced in industry. Its contents, are, indeed, very similar. In addition to signed articles on topics ranging from atomic energy to bird-watching, it has prison gossip, and a letters-to-the-editor feature.

Inspired no doubt by the example of Leyhill, Wakefield prison has now started a similar periodical—an innovation being the exchange of news and contributions between the two magazines.

As a subsidiary to *New Dawn*, there are notice boards on which are pinned reports of weekly bowls, football and cricket matches, as well as reports on visitors to Leyhill.

There is also a weekly review of radio Saturday Night Theatre, and a weekly illustrated photography column.

The editor and his assistant were full of enthusiasm for their production and for the opportunity to express their abilities in such a socially-useful form. How much better it is for the editor himself, for the community, and for the prison, that he should be absorbed in such a project. It is better that he should be engaged in a task that requires much of his time rather than having time on his hands.

Theatre

Another hut was the prison theatre with a seating capacity of 280. Here, the drama group was rehearsing Shaw's "The Apple Cart." What was intriguing was to see several young women rehearsing with the men. On asking about them I was told they were members of the Wootton-under-Edge Drama Society—volunteers allowed to take part in the prison plays so as to avoid the problem of male actors having to "dub" female parts. This imaginative concession by the Governor has many advantages. It gives the men a greater incentive in their acting and heightens the quality of the final production. An all-male cast loses quality where females have to be impersonated. A serious play ceases to be so the moment a male enters the stage dressed as a female.

Leyhill puts on three shows a year for invited audiences.

In another hut a debate was taking place on "Have modern Governments ceased to govern?" In other rooms, men were playing chess, playing in an orchestra, singing in a choir, and listening to musical appreciation classes to records from chamber music to jazz.

All this activity was most consoling even allowing that Leyhill is a special type of prison with a special type of prisoner. As the governor said, "Many of the men complain they haven't enough time to do all they would like. It is a far healthier rêgime than where men have time to spare.

"We give the men a fresh start. Most of them take the chance and get on with it."

Perhaps the success of Leyhill is to be gauged in figures. 98·4 *per cent.* of the men who leave the prison never get into trouble again. And employers are amazed at the high rate of proficiency they have achieved during their stay.

Last year 10 men took first class passes in the City and Guilds Institutes, final examinations; while seven took second class passes.

In the General Certificate of Education examinations, through London University, three men passed at advanced level, and three at ordinary level last year. One passed the examination for lay preachers; another was successful in the examination set by the Institute of Industrial Administration.

At present 34 men are taking correspondence courses to supplement class teaching or in subjects where the educational authorities cannot provide suitable classes at Leyhill.

Additional to day-time technical training, non-vocational group activities and classes take up much evening time. Classes in philosophy, economics, democracy and government are held, with an average attendance of 10 in each class. The University of Bristol, the Gloucestershire county education committee, the prison commissioners, and voluntary helpers, are responsible for the organization of classes.

Tutor-Organizer

An interesting appointment is that of a full-time tutor-organizer. For the past 18 months, Mr. J. L. Warhurst has been seconded to Leyhill by the county education authorities for full-time duties responsible direct to the governor.

It is precisely this emphasis on education and on personal opportunity to study and train, both in vocational and non-professional courses that has contributed to the undoubted success. Obviously, such an open prison run on these advanced lines cannot be applied to every type of prisoner. But it is to be hoped that principles that have been proven successful will continue to govern the future development of our penal system.

One man openly admitted that the atmosphere of Leyhill had gradually influenced him away from his former anti-social feelings. He had acquired new interests, a more balanced sense of values, and was grateful for now holding life in proper perspective. One felt instinctively that the Leyhill technique—a prison without bars—would win over any prisoner with a "chip on his shoulder."

The Pay

All were full of praise and all had the same single complaint, the pay, which amounts to an average of 2*s.* 10*d.* per week, barely enough to buy one large packet of cigarettes or one ounce of pipe tobacco. One is not asking that they should live in luxury if one suggests that as the present earnings figure was fixed some years ago it should be made more commensurate with increased living and increased tobacco costs. To raise the amount is, in physical terms, merely to bring them back to their former level. This has been conceded in the case of borstal boys who recently had a substantial increase in their weekly earning capacity.

Those of us who are councillors, magistrates, and in any way responsible for placing men in employment, will find one or two questions exercising our minds. The major concern is finding suitable employment for Leyhill men on their release. This poses the question about the attitude of the trade unions, in particular, the craft unions. Training prisoners to take up another trade (for obvious reasons these men cannot return to their previous posts or professions) is of considerable public cost. The public money is wasted if the men find difficulty in obtaining jobs for which Leyhill has trained them. And if Leyhill stresses rehabilitation, then the co-operation of all of us is necessary. To leave prisoners to fend for themselves the moment they cease to be prisoners is to ask for further trouble.

Clearly, Leyhill is no longer an experiment, but is a practical success. To visit it is to experience a new feeling of hope and optimism. One feels pleased that the prison commissioners had the courage and the imagination to open such a prison; one feels even more pleased that the men selected to go there have reacted more favourably than the most sanguine of penal reformers anticipated.

If a country's prisons reflect the social conscience of its people, then Leyhill, as one British prison at least, mirrors the increasing tolerance and social wisdom of Britain during the past decade. A.M.

WHAT ARE SPECIAL OCCASIONS?

Section 8 of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, has thrown up a quantity of litigation out of proportion to its length. A problem which had not so far reached the High Court was before the appeals committee of Glamorgan county sessions in November; Messrs. L. C. Thomas & Son of Neath, solicitors for the ratepayer, to whom we are indebted for a note of the case, believe it also to have arisen twice only before at quarter sessions, in two cases at Newcastle-upon-Tyne. The problem was to decide what is meant by the expression in brackets (except on special occasions) in para. (*c*) of subs. (1): it is the sort of expression which Parliament inserts so light-heartedly in statutes, to be worked out afterwards at the expense of those affected. The case, *Briton Ferry Steel Co., Ltd.* v. *Neath Corporation*, was heard by the learned deputy chairman and two lay justices—as good a tribunal (we may remark in passing) as could be devized for determining the meaning of a few ordinary English words.

The facts were not disputed. The Briton Ferry Steel Co. provide a sports field at Briton Ferry in the borough of Neath. Different games are played, of which some are "matches," open to the public, numbering more than 80 each season, of which some 40–50 are cricket matches. In addition, the members of the welfare organization use the fields for games other than matches on several occasions during the week. No charge is ever made for admission to any of the games of bowls, tennis, or to second or third eleven cricket matches, but on half a dozen occasions in the year charges are made to persons outside the welfare scheme, of 1*s.* for adults and 3*d.* for old age pensioners or children, to watch the first eleven playing in league matches under the rules of the South Wales and Monmouthshire Cricket League. Gate receipts form an insignificant part of the money required for running the field (about one or two *per cent.*)

The recorder of Newcastle-upon-Tyne in *Wearmouth Colliery Welfare Fund* v. *Sunderland Corporation* [1957] 1 R.R.C. 272, and *Wearmouth Colliery Cricket Club* v. *Sunderland Corporation, ibid.*, 277, had refused to grant relief; he had before him cases in which the meaning of the words "special occasion" in s. 61 of the Road Traffic Act, 1930, has been considered: *Miller* v. *Pill; Pill* v. *Furse; Pill* v. *Mutton & Son* [1933] 2 Q.B. 308; *Wurzal* v. *Bowker* [1953] 2 All E.R. 88; 117 J.P. 336; *Victoria Motors (Scarborough) Ltd.* v. *Wurzal* [1957] 1 All E.R. 1016; 115 J.P. 333, and *Browning* v. *J. W. H. Watson (Rochester) Ltd.* [1953] 2 All E.R. 775; 117 J.P. 479.

The appellants in Glamorganshire argued that the occasions were special on the authority of the remarks of Lord Goddard in the case of *Browning* v. *J. W. H. Watson (Rochester) Ltd.* [1933] 2 All E.R. 775, particularly those words on p. 777:

> "Here you have football matches of a special nature in the sense that they are not just ordinary club matches, but are league matches, and occurring not more than twice a month. Could the justices on those facts properly find that they were special occasions? In my opinion, clearly they could."

and those of Parker, J., as he then was, on p. 779 of the same report:

> "I agree. I would only add that, on the facts found by the magistrates, it is impossible to say that they were wrong in holding that the six occasions in question were special occasions. Speaking for myself, I should like to reserve the question whether, if in any particular case the facts showed that the occasions in question were more frequent, the time might come when those occasions ceased to be special occasions by reason of their frequency."

The deputy chairman, Mr. G. Owen George, in his judgment in favour of the appellants, stated that he thought that it was dangerous to draw any conclusions as to the meaning of the words "except on special occasions" under the Rating and Valuation (Miscellaneous Provisions) Act, 1955, by an analogy from the Road Traffic Act, as these words were qualified in the latter Act but unqualified in the Rating and Valuation (Miscellaneous Provisions) Act, and he stated that it did not fall to the court to decide whether the facts before them constituted a "special occasion" within the meaning of the Road Traffic Act. If this had had to be done, he would have held that they were special occasions, but upon the unfettered use of the words of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, he was of the opinion that these could be considered special occasions. He distinguished the Sunderland cases on the ground that in those cases a charge had been made for every match played, so that there was no yardstick to measure special occasions against ordinary occasions, but in the circumstances now before the court, where a charge was made on some half-dozen occasions out of a total of some 80 matches played, there was ample room for comparison, and reason for holding that these half-dozen league matches were special occasions even though they occurred annually. The court accordingly gave judgment for the appellants with costs.

[We may add that the expression "special occasions" occurs in another context familiar to many of our readers, namely, in relation to liquor licences: *see* s. 107 of the Licensing Act, 1953. It would be equally dangerous to reason

from decisions upon that enactment as from decisions under the Road Traffic Act, 1930, but the decision in Glamorganshire seems to be in line with those noted in *Stone* upon the sections now consolidated in s. 107 of the Act of 1953.]

(Counsel were: for the appellants, Mr. Tasker Watkins, V.C., instructed by Messrs. L. C. Thomas & Son, of Neath; for the respondents, Mr. F. Donald Walters, instructed by the town clerk of Neath, Mr. D. King Davies.)

THE BLOCK GRANT

CUTTING THE COAT ACCORDING TO THE CLOTH

[CONTRIBUTED]

The Government have decided, it seems, that their proposals embodying the much discussed block grant are to be carried through Parliament this session, and despite the resolute opposition which may be expected it is difficult to see how anything can now affect the flow of events. If the Government were to falter anything might happen, but there is no sign of this and as far as can be judged they intend to act boldly, thinking perhaps that " prudence would be rashness " at this juncture.

On the assumption that the proposals will come into operation on April 1, 1959, it behoves each local authority to consider its own ability to cope with the new conditions which the block grant will impose upon its finances. Waiting for the guillotine to descend is not a good policy at any time and a little boldness on the part of local authorities would not come amiss in the circumstances.

Financial Control

Attention might be directed to the functions and composition of the finance committee. It is still one of the peculiarities of the English local government system that not all local authorities are compelled by statute to appoint a finance committee, although most authorities do so. Whatever the status of the finance committee, the function in general is to regulate and control the finances of the authority. In many cases, however, the finance committee is not completely successful in this primary function—it may pass formal resolutions approving estimates, fixing rates or precepts, authorizing borrowing and so forth, but real financial control goes much further than this.

At the present time, the financial *tempo* is set, before any figures reach the finance committee, chiefly by the amount of money required by the main spending committees, and in recent years, as we all know, the amount has been increasing at an alarming rate. The finance committee may prune a little here and there, but what it can achieve in this direction is generally but a drop in the ocean. To be quite fair to the spending committees it must be admitted that the increased demands are partly (but not wholly) due to the effect of inflation , but these committees must also be fair and realize that there are times when policy may have to take second place to finance.

The Need of a Strong Finance Committee

The strength and independence of the finance committee depends largely upon its composition. It is difficult for members who also serve on spending committees (and may be chairmen) to take a detached view, as they are bound to have conflicting thoughts when the desirability of some policy or project has to be weighed against the cost. Ideally, members of the finance committee should not also be members of spending committees, but this ideal is not practicable because the finance committee must be representative and strong enough to carry its views before the council. So, one often finds that the chairmen of all the important spending committees are also members of the finance committee, but if other able and experienced members are available for service on this committee it will usually be the better for their presence.

If the finance committee is carefully selected it may perhaps be able to take a strong line, if the occasion demands, when considering estimates. Standing orders (or financial regulations) should provide for all estimates to be referred to the finance committee and for direct submission from there to the council, the finance committee having power to amend the estimates after, should it be considered necessary, consultation with the spending committee. In practice such consultation would be normal. If, however, a deadlock is reached between the finance committee and a spending committee, the latter must be free to put its views to the council, but it should be made clear that the submission of estimates to the council is the job of the finance committee. The latter should not be obliged to put forward the spending committee's original figures if it does not agree with them. The onus is then placed upon the spending committee to convince the council, if it can, that a different estimate should be approved.

A bolder step would be for the finance committee, following the Government's steps to limit its spending in advance. The amount of the block grant for each grant period will be known, and allowing for any expected rate-deficiency grant, the natural increase in 1*d*. rate product, and any other expected increased income, it will be possible to fix a maximum rate or precept to be levied during that grant period (not necessarily the same each year). Allocations would be made to the various spending committees *and to a contingency account for unexpected expenditure* as authorized by s. 12 (1) of the Rating and Valuation Act, 1925. Only the council on the recommendation of the finance committee should be able to authorize drawing on this contingency fund, and if the amount is not used in one year it might be added to committee allocations for the next year. It is assumed that a reasonable working balance will be maintained out of which any actual overspendings would be met (closely watched, of course) and into which underspendings would be put.

In this way, expansion of services within a grant period, and the effect of inflation (if it continues) would be confined within the limits of available resources. Would local services suffer ? Over the long term it is thought not, although there might be some slowing of expansion over the short period. The Government would not be introducing the block grant if they were not prepared to accept this position, and the Ministers of the various Government departments (as members of the Government) must accept it also with good grace or else take the only alternative remedy.

If the majority of local authorities act in this or a similar manner, they will be greatly strengthened when the time comes for fixing the aggregate amount of the block grant for each grant period.

WEEKLY NOTES OF CASES

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Devlin and Pearson, JJ.)

R. *v.* OLIVER

November 25, December 3, 1957

Criminal Law—Venue—Postponement of trial to next Assize but one in different county—Jurisdiction—Criminal Justice Act, 1925 (14 *and* 15 *Geo.* 5, *c.* 86), *s.* 14 (2)—*Administration of Justice (Miscellaneous Provisions) Act,* 1938 (1 *and* 2 *Geo.* 6, *c.* 63), *s.* 11 (3).

MOTION by the Attorney-General for order directing change of venue.

On November 4, 1957, the trial of John Henry Walter Oliver for murder began at Exeter City Assizes before SALMON, J. In reports of counsel's opening speech in three national newspapers matters were included which counsel had deliberately refrained from mentioning, though they had been given in evidence and published in the local Press during the magisterial proceedings. Those matters had formed part of a statement which it was alleged the defendant had made to the police. The Judge decided to discharge the jury in case any of them had seen those inaccurate reports which, in his opinion and that of counsel on both sides, were highly prejudicial. The Judge also directed that the trial should take place away from Exeter, and that it should take place at the Assizes for the county of Southampton, not at the forthcoming autumn Assize, but, at the suggestion of counsel for the defence, at the winter Assize which would not be held until March, 1958.

The Judge, in making the order which he did, relied on s. 14 (2) of the Criminal Justice Act, 1925, which provides: "Where for any reason whatsoever the trial of a person who has been committed to be tried for an indictable offence before a Court of Assize or quarter sessions for any place is either not proceeded with or not brought to a final conclusion before that court, it shall be lawful for that court, if in its discretion it thinks it convenient so to do with a view either to expediting the trial or re-trial or the saving of expense or otherwise and is satisfied that the accused will not thereby suffer hardship, to direct that the trial or re-trial of the accused shall take place before a Court of Assize, or (if the offence is within the jurisdiction of a court of quarter sessions) before a court of quarter sessions, for some other place." The Attorney-General moved, under s. 11 (3) of the Administration of Justice (Miscellaneous Provisions) Act, 1938, for an order directing the trial to take place at the next session of the Central Criminal Court.

Held: that the power given by s. 14 (2) of the Act of 1925 was limited to sending a case for trial to the next Assizes or sessions for the "foreign" place, subject to the provisions of s. 14 (5), which enabled the committal to be to the next quarter sessions but one only if the next sessions were to be held within five days of the date of committal. The order made by SALMON, J., in the present case was, therefore, invalid, and the court would make the order sought by the ATTORNEY-GENERAL directing trial at the next sessions of the Central Criminal Court.

Per curiam: Where removal to another court is sought on the ground of prejudice and there is any doubt with regard to a suitable court to which to send the case, it would be convenient to discharge the jury and order trial at the next Assizes or sessions for the county or city where the indictment has been preferred, leaving it to the prosecution or defence to apply to the Queen's Bench Division for an order under s. 11 (3) of the Act of 1938.

Counsel: *Sir Reginald Manningham-Buller, Q.C. (A.-G.), Fay, Q.C.,* and *Michael Hoare,* for the applicant; *Skelhorn, Q.C.,* and *H. E. Park,* for the respondent.

Solicitors: *Director of Public Prosecutions; Theodore Goddard, & Co.,* for *Crosse & Crosse,* Exeter.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

HORACE PLUNKETT FOUNDATION *v.* ST. PANCRAS BOROUGH COUNCIL

December 4, 1957

Rating—Relief—Hereditament previously exempted from rating as scientific society—No "total amount of rates charged"—No right to reduction of present rate—Rating and Valuation (Miscellaneous Provisions) Act, 1955 (4 *and* 5 *Eliz.* 2, *c.* 9), *s.* 8 (2) (*a*).

CASE STATED by the Appeal Committee of the County of London quarter sessions.

The appellants, the Horace Plunkett Foundation, appealed to the County of London quarter sessions against a rate made by the St. Pancras borough council in respect of the appellants' premises in Doughty Street, London, on the ground that the rate was not made in conformity with s. 8 of the Rating and Valuation (Miscellaneous Provisions) Act, 1955.

It was admitted that the foundation was within the terms of s. 8 (1) (*a*) of the Act as an organization not established or conducted for profit and whose main objects were charitable or concerned with the advancement of education and social welfare. Before April, 1956, no amount of rates had been demanded, as the foundation had been exempted from rating under the Scientific Societies Act, 1843. For the year ended March 31, 1957, the premises were rated at £187 15s. The appeal committee were of the opinion that the appellants did not come within s. 8 (2) of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, because the total amount charged for the preceding year was nil, which was not an "amount" and could not, therefore, be proportioned or reduced. The committee dismissed the appeal, and the foundation appealed to the Divisional Court.

Held: that where no rates had been charged, there was no "total amount of rates charged" within the meaning of s. 8 (2) (*a*) with which comparison could be made so that s. 8 had no application to such a case, and, therefore, quarter sessions had come to a right conclusion and the appeal must be dismissed.

Counsel: *Harold B. Williams, Q.C.,* and *Roots,* for the appellants; *Scholefield,* for the respondents.

Solicitors: *Barfield & Barfield; R. C. E. Austin,* Town Clerk, St. Pancras.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Lord Merriman, P., and Stevenson, J.)

BYATT *v.* BYATT

October 31, November 1, 12, 13, 14, 1957

Husband and Wife—Appeal—Fraud—Notice of motion—Jurisdiction—Summary Jurisdiction (Married Women) Act, 1895 (58 *and* 59 *Vict. c.* 39), *s.* 11.

APPEAL against order of Edmonton justices.

By a complaint dated August 16, 1956, the husband alleged that the wife had within the preceding six months been guilty of adultery with a person unknown at a place unknown. The wife did not attend the hearing of the complaint and the case proceeded in her absence. Two letters written by the wife were put before the justices, one addressed to the husband, the other addressed to the court, in both of which she said that she had committed adultery. The justices made a separation order in favour of the husband. The wife appealed by notice of motion in which she asked for leave to admit fresh evidence and alleged as her grounds of appeal, among others, that the two letters produced before the justices had been written by her under fear and duress and at the dictation of the husband; that the admission of adultery was, as the husband well knew, untrue; and that she had never committed adultery. She filed an affidavit setting out her version of the facts. At the hearing before the Divisional Court it was contended that it was not proper to proceed by motion to raise allegations of this nature, and the case is reported on this procedural point.

Held: the fact that the ground of appeal was fraud or conduct akin to duress did not make it improper to proceed by motion of appeal in order to obtain the discharge of a separation order made by justices on the ground of the wife's adultery, and, therefore, the preliminary point was rejected.

Counsel: *Dunlop,* for the wife; *Curtis-Bennett* for the husband.

Solicitors: *S. Beach & Co.; J. C. Martin.*

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

NOTICES

The next court of quarter sessions for the county of Cardigan will be held on Thursday, January 2, 1958, at the Town Hall, Lampeter.

The next court of quarter sessions for the borough of Grantham will be held on Monday, January 6, 1958.

The next court of quarter sessions for the county of Pembroke will be held on Monday, January 6, 1958, with the adjourned sessions on February 17, 1958.

MISCELLANEOUS INFORMATION

COUNTY BOROUGH OF SOUTH SHIELDS: CHIEF CONSTABLE'S REPORT FOR 1956

Ten recruits, with only four losses, brought this force to an actual strength of 155, only one less than its authorized establishment of 156. Five applications to join the women police and eight to join the cadets could not be entertained because there were no vacancies.

The special constabulary, numbering 143, did 1,359 hours of duty during 1956. Their duties included patrol beats for short periods once a month and special duties to assist the regular police on the occasions of football matches, elections and the flower show.

The figures given for days lost through sickness and injury show how misleading averages can be. The total days lost (1,304) give an average per member of 8.33 days; but then we read that 574 of the total number of days were accounted for by the illness of only seven members. Seventy-three others had some period of absence, giving them an average of 10 days each, whilst the unfortunate seven averaged 82 days each and the remainder of the force (nearly one half) had none.

In reporting on communications the chief constable refers to the introduction during 1956 of a working arrangement with the Durham county constabulary for the use of the "Telex" service. He states that the system proved invaluable in transmitting cheaply police messages which would otherwise have had to be dealt with by costly trunk calls and he advicates the fullest use, by police forces, of this service.

Recorded indictable crimes numbered 991, of which 768 were detected. One hundred and forty-six adults and 125 juveniles were proceeded against for these offences, juveniles being responsible for no less than 53.64 *per cent.* of the detected crimes. It is noted that several crimes of breaking and entering business premises committed by juveniles had the mark of the professional thief. What is alarming is that it is said that in the majority of cases the juveniles concerned had good homes and were well nourished. There was no single instance where a child was shown to have committed his offence through want. The motive seems to have been either malicious mischief or the desire to get spending money. The chief constable observes that parents whose one object in life seems to be to give their children what they themselves never had are much inclined to over-indulge them and this leads to the children losing their sense of value and sometimes their virtue. There was a welcome reduction in the number of sexual offences, particularly in those involving the corruption of youth. There were only 18 such cases compared with 67 in 1955. Breaking offences, however, increased from 113 (the lowest figure since the war) to 206. Too much money is kept in business premises and houses, and the chief constable urges people to make more use of the "night safe" and of banks. He also assures people that the police always welcome prompt reports of suspicious occurrences even though the subsequent investigation leads to nothing.

Eight hundred and sixty-seven people were prosecuted for non-indictable offences, 169 more than in 1955. There were also 569 police cautions for Road Traffic offences. There were 18 convictions for the offence of driving, or being in charge of, a motor vehicle while under the influence of drink. Other convictions for offences of drunkenness numbered 213.

Accidents causing death or injury totalled 249. The principal causes were analysed and this showed 38 to be the fault of drivers, 95 that of pedestrians who crossed without taking proper care, and 22 that of passengers alighting from or boarding vehicles in motion. It is probably true that some of the 95 careless pedestrians might have been saved from the consequences of their own folly had the drivers concerned been "driving defensively," but this does not excuse the pedestrians.

Amongst the additional services which the police render to the public whom they serve so well we find that first-aid was rendered for various causes on 309 occasions. The police officer is certainly the man of all work, sometimes, now that we have women police, the "maid of all work."

CITY OF COVENTRY: CHIEF CONSTABLE'S REPORT FOR 1956

Although Coventry's force finished the year with an actual strength of 322, against an authorized establishment of 389, the position was much better than that at the end of 1955. Fifty-five men and seven women were enrolled during the year and there were only 30 losses, so that the force gained 32. The special constables, not to be outdone by their regular colleagues, also increased their numbers, with 12 gains and five losses. Their strength at the end of the year was 232.

There were more recorded crimes in 1956 than in 1955, the respective figures being 3,946 and 3,794. Two thousand, two hundred and sixty-one were detected in 1956 and juveniles were responsible for 880 of these. In spite of the overall increase, offences against the person showed a big decrease from 542 to 283. The decrease is attributed to the arrest and subsequent conviction and imprisonment of a number of persons who were responsible in 1955 for a large number of such offences, particularly those of gross indecency. Nine hundred and seventy-seven persons were prosecuted for indictable offences and 280 were cautioned. Of the 977, 365 were juveniles, and of those cautioned 180 were juveniles.

Non-indictable offences showed a considerable increase. Five thousand, two hundred and fifty-five persons were prosecuted, compared with 4,682 in 1955. The increases were in cases of motor vehicle obstructions, neglect of traffic signs and offences by cyclists of riding on footpaths and not having proper brakes. There were a total of 4,041 motoring offences committed by 2,902 persons, and 1,898 persons were cautioned for a variety of minor offences. There were 31 charges of driving, or being in charge of, motor vehicles while under the influence of drink, four more than in 1955. Six hundred and thirteen other persons were prosecuted for drunkenness offences, one fewer than in 1955.

The decrease in accidents, from 3,278 to 3,094, occurred during the last five months of the year, the largest monthly drop, compared with 1955, being in December, when there were 144 fewer. Petrol rationing was presumably responsible for this. In 55 *per cent.* of all accidents drivers of vehicles were wholly or partly responsible and in half these cases (965) the accident was due to lack of care. This is much too high a proportion to be tolerated. It means that far too many drivers are still not realizing their responsibilities when they take a vehicle on the roads, and are not appreciating the duty they owe to others. The report emphasizes the danger to children caused by stationary vehicles moving off after delivering or serving customers. Young children are attracted to such vehicles, and the only safe rule is for the driver to look round his vehicle before moving off.

Three hundred and fifty-five accidents were attributed to dogs loose on the roads. In another part of the report we see that the police had to deal, during the year, with 1,065 stray dogs. How many of these, we wonder, were concerned in the 355 accidents referred to. In these days it is a serious matter in a crowded urban area for people to allow dogs to run loose in the streets. It may be that the new power to enforce their being kept on leads in certain roads will have a salutary effect, always provided that the requirement can be, and is, adequately enforced.

ROAD RESEARCH

The annual report of the Department of Scientific and Industrial Research contains an interesting account of the work of the Road Research laboratory which is conducted under the main heads of safety traffic; and construction materials. The extent of the large volume of traffic is shown by the fact that the increase in the number of vehicles on the roads between 1954 and 1955 was double the corresponding increase in the previous years. The laboratory has made a study of the effectiveness of the varying ways of indicating the turning of a vehicle including flashing indicators and semaphore arms. It is found that the most effective devices are amber indicators mounted at the sides of the vehicle so that they can be readily seen from the side of the vehicle as well as from the front and rear. Recommendations based on these results were made to the Ministry of Transport and Civil Aviation.

On the question of motorways a recent research undertaken on behalf of the British Road Federation showed that the number of fatal accidents on urban motorways with restricted access in the United States was as low as two per 100 million miles travelled. The equivalent figure for main roads leading out of London ranged from 10 to 40 fatalities per 100 million miles. Data was collected for eight roads in the London area of the effect of improving the lighting on the number of accidents during the hours of darkness. In the periods after the improvement (ranging from one to two years) there were 120 personal injury accidents as compared with 184 similar accidents for the

same roads in corresponding periods of time before the improvements. This is a saving of two accidents per year per mile of road. It has been suggested that it is a reasonable assumption that each accident costs the country some £500. The investigation showed that on this basis the saving is of the same order as the cost spread over 15 years of installing and running the improved lighting.

GERIATRIC SERVICES IN SURREY

The Surrey joint liaison committee of representatives of the South West Metropolitan Regional Hospital Board, the Surrey county council as local health authority, and the Surrey executive committee, have produced a blue-print for the future of geriatric services in the county.

In a report just published the joint liaison committee say that (i) more positive steps need to be taken in many parts of the county to ensure that the best use is made of all existing services and facilities for old people and to ensure that the future development of geriatric services is energetically pursued; (ii) the most effective means of achieving this is by the setting up by the hospital management committee in each hospital group area of a geriatric services committee representative of all the statutory and voluntary bodies concerned and by the appointment of a geriatrician of appropriate status by the board with financial help on an agreed basis from the county council to serve in each hospital group area; (iii) the general practitioner should be fully informed and consulted in any arrangements for the care of old people; (iv) the county council and the board should join together in establishing, on an experimental basis, a day hospital or centre for old people adjacent to St. Luke's Hospital to be run by the Guildford group hospital management committee.

WARWICKSHIRE FINANCES, 1956–57

County treasurer Mr. S. W. Davey, F.S.A.A., states in his preface to the Warwickshire accounts that total expenditure increased by 14½ *per cent.* over the previous year: the total spent in 1956–57 was £10,100,000. Education expenses rose by over a million pounds to £6,400,000, and the relative increase in the expenditure of the standing joint committee was almost as large to a total of £750,000. In both cases there were large increases in staff costs. Warwickshire's position at the heart of England is well illustrated by the river board precepts it pays: there are contributions by the county ratepayers for the Severn, the Thames and the Trent. The county council continues to display a keen interest in historical records and during the year spent over £11,000 on the running expenses of its museum and records office.

As in many other authorities the percentage of total expenditure met from rates in Warwickshire is climbing. In 1956–57 38 *per cent.* was paid for in this way, equivalent to a rate of 12*s.* 9*d.* In fact the rate precept was 11*s.* 9*d.* and the county fund balances fell during the year by £196,000 to £259,000.

Small holdings have so far been provided without a charge on the rates. Cost of repairs and decorations to buildings was just under a third of rents receivable.

The superannuation fund continues to grow: there was an accretion of £225,000 during the year. All new investments on this account have been made by way of loans to the county council.

The authority operate a capital fund consisting of capital moneys received under financial adjustments consequent upon boundary alterations and also from the sale of capital assets. The fund is used for borrowings by the council and for making advances to parish councils and other local bodies. At the year end the fund total was £319,000.

The county has an area of 559,000 acres and a population of 536,000. Business is carried on at small costs to the ratepayers: during the year all expenses of members of the council, including travelling, subsistence and claims for loss of remuneration, amounted to only £2,260.

Capital expenditure showed a sharp increase as compared with 1955–56, the respective figures being £2,912,000 and £1,570,000. Education capital works cost £2,602,000.

Total loan debt at March 31 last was £9,000,000 equal to £16 16*s.* per head of population.

ISLE OF ELY PROBATION REPORT

Two probation officers are appointed to do the whole of the work arising in this rural division. Their report for 1956 makes it clear that such an area has problems of a kind unknown to more urban regions. The seasonal fruit-picking in the Wisbech area, for instance, brings an influx of people in search of casual work, and some tend to settle in lodgings or caravans without much hope of secure employment in the winter and spring. For the children of these nomadic parents these seasons are full of danger, which is not always surmounted. So we read that "a great many of the younger probationers show an alarming disregard for social security and would rather be out of work for 2–3 months a year in order to earn good wages during the fruit-picking season than take regular and permanent work at a lower wage. Apart from the short-sightedness of this policy, many of them refuse regular work in an attempt at retaining their independence, which seems to be satisfied by their refusal to give their full loyalty to any one employer."

This is a revealing picture of a particular aspect of youthful recalcitrance which must be very difficult to handle. An abnormal economic situation has now prevailed for several years. It has contributed its own quota to the mounting tally of delinquency. No one would dispute that too little money can be a cause of anti-social conduct: there is, however, plenty of evidence that too much money, too easily earned, can produce a similarly unhappy sequel. Stability of wages, of employment, and of leisure activity—this must be the goal. This report confirms the testimony of officers from areas of a wholly different type that there is a long way to go before such an equilibrium is attained.

ESSEX WEIGHTS AND MEASURES REPORT

This report contains some pertinent comment on the connexion between changing social habits and the work of the weights and measures inspectorate. We read, for instance, that "owing to the number of married women in whole or part-time employment it is becoming increasingly frequent for food and fuel to be delivered by tradesmen when no-one is available to check in the goods. Thus the delivery of short weight and of poor quality goods is more easily effected and more difficult to prove." All this is a pretty poor reflection on merchants' integrity—but the figures provided by the various tables in this report show that honesty is rarer than it should be among those on whom the public relies for its food and fuel.

Another up-to-date comment concerns the prevalence of prepacked foods: we are told that this system certainly reduces the opportunity for adulteration of foodstuffs by retailers, but on the other hand there is "a danger that foodstuffs which deteriorate during storage are sold after their useful life has expired." Mr. Horsnell, chief inspector of weights and measures for this area, recommends a system of code marking so that the date of manufacture should be known to the retailer. To this we would add the further suggestion that the actual date of manufacture should be printed on the packets: then even the customer would know the age of the food he was buying.

Mr. Horsnell remarks on the increased use of fuel oil for domestic heating. He points out that customers' deliveries are made direct from road tankers and that existing regulations apply only to verification and inspection of meters used for sales up to 20 gallons: amended regulations are urgently required so that the types of meter used for large-scale deliveries may be adequately tested. This is but one further example of the way in which the weights and measures inspectorate are actively on the watch for opportunities to protect the public from possible exploitation.

THE YOUTH SERVICE

The seventh report from the Select Committee on Estimates for the session 1956–57 deals with an examination of the youth employment service and youth service grants. The Education Act, 1944, places on local education authorities a duty to ensure that adequate facilities for recreation and physical training are available for children of school age and the organization of cultural training and recreative activities for those above school age who are able and willing to profit from them. In carrying out this work local education authorities may themselves provide the facilities or they may aid voluntary organizations to do so. It is pointed out in the report of the Select Committee that it is thus clear that the youth service was intended by Parliament to be a partnership between official and voluntary organizations. The Select Committee gave special consideration to the work done by the Central Council of Physical Recreation which receives considerable grants under the Physical Training and Recreation Act, 1933, direct from the Ministry for sports organizations, village halls and community centres, from some of which youth services may benefit. The Select Committee fully appreciated the valuable work done by the Central Council but considered it inappropriate that the Council should receive assistance under regulations primarily designed for youth organizations. It was considered that it should be grant aided under the Physical Training and Recreation Act.

Local education authorities also spent in 1956–57 about £5 million on recreational and physical training of which at least half may be attributed to the age group 15–20. The Select Committee were not satisfied that the Ministry of Education was properly exercizing its responsibility for the money voted for the youth service. They gained the impression that the Ministry was little interested in the present state of the service and apathetic about its future. It was considered that this apathy was having a deeply discouraging effect on the valuable work done for the service, much of it voluntary and unpaid, and must thereby be reacting unfavourably on the value of the money obtained from the grants.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

The Maintenance Orders Bill was accorded a Second Reading without a division in the Commons.

Moving the Second Reading, the Secretary of State for the Home Department, Mr. R. A. Butler, said that one result of the greater ease with which divorces or separations could now be obtained was that the courts were making a considerable number of orders every year for the payment by a man of money for the maintenance of a wife from whom he was divorced or separated and for the maintenance of their children. Nobody would deny that there should be available convenient machinery for the enforcement of such orders and that the courts should be able to see that their intent that the wife and children should be maintained was, in fact, carried out. After the most careful consideration, the Government had come to the conclusion that the machinery was not sufficiently good.

The purpose of the Bill, therefore, was to improve the machinery in two main respects. Part I enabled maintenance orders made in the High Court to be registered and enforced in a magistrates' court; and orders made in a magistrates' court to be registered and enforced in the High Court or county court. The result would be that it would be possible for a maintenance order, irrespective of the court in which it had been made, to be enforced in the court, and by the procedure most suitable to the circumstances of each particular human case. Part II introduced a new method of enforcement which had not hitherto been available in either a magistrates' or a High Court. The orders to which the Bill applied were those made in the interests of a wife or child—maintenance orders, affiliation orders, orders under the Guardianship of Infants Acts, and contribution orders in respect of dependants maintained at public expense. Part I did not apply to Scotland or Northern Ireland orders registered in England or Wales under the Maintenance Orders Act, 1950, but part II did.

He went on to say that about 5,000 men were sent to prison every year for failure to keep up payments under maintenance orders. That was a futile and positively harmful operation. The woman received no money because the man ceased to earn while in prison. It lost the man his job, and the country his productive capacity. It exposed a defaulter to the contamination of prison but not to any reformative influences. It occupied time and space in prison and a considerable amount of public money. On an average, it cost the taxpayer about £5 15*s.* a week to keep a man in prison at present.

In Scotland, there was the power to arrest the wages actually owing to a man. That power was used sparingly, in about 1,500 cases a year. The sparing manner in which it was used had a most remarkable effect. In fact, so successful was the system in Scotland that there were only about 30 committals to prison each year. At present, in England and Wales, magistrates' courts and, in many cases, the High Court and county courts, had no alternative but to send defaulters to prison. No more constructive method of dealing with them was available. The committal could be suspended on condition that the man made regular payments, but if he failed, there was nothing but prison. That was the law. The Bill provided a constructive alternative. Instead of sending a man to prison, or holding the threat of prison over his head, the court could make an order for the employer to make a deduction from the man's salary or wages. He concluded that the net result of the Bill would be that they might be able to keep 2,000 men out of prison every year. If they could do that, it would be a result well worth achieving, in terms of the benefit to society, to the human happiness of the men themselves, and to the women, who would get the money to which they were entitled. He understood that over 25,000 maintenance orders were made every year in the magistrates' courts.

Some people feared that attachment for maintenance purposes was the thin end of a very long wedge. People might ask whether, when they were introducing the Bill for the attachment of wages, they were to extend the principle of attachment to such matters as civil debt, hire-purchase agreements, fines or any other purposes. It was not the intention of the Government to extend attachment to any of those things or any other purposes. The Scottish law went further than the Bill, but it was not the intention of the Government in legislating for England and Wales in the matter of attachment of wages to go further than the Bill. They considered that maintenance obligations were in a class by themselves.

Part I of the Bill dealt with the registration of orders. The Royal Commission on Marriage and Divorce had recommended that maintenance orders made by the High Court should be capable of being registered and enforced in a magistrates' court. The Bill gave effect to that recommendation with only minor modifications. Regarding magistrates' court orders, the Royal Commission had not considered whether a two-way traffic would be desirable. The Government thought that it would, and in cl. 1 of the Bill they had provided for the registration in the High Court of an order made by a magistrates' court and its enforcement in the High Court or the county court. Under cl. 2 (3) registration would be granted as of course on the application of the person entitled to receive payments under the order, who might be the woman or the collecting officer. Registration in the High Court would make available to the woman the enforcement procedures which were available in the High Court but not in the magistrates' court.

At present, if a man ran up arrears on a magistrates' court order, he could be committed to prison, or distress could be levied on his cash or goods, but those methods did not enable the woman to obtain satisfaction from any capital or the sources of any unearned income that the man might have. In the High Court she could secure payment of the arrears in a variety of ways. That was not exactly an improvement, but was an extra power to the woman which gave greater force to the Bill. There might not be many cases in which a man with a magistrates' court maintenance order against him had property to which High Court procedures were appropriate, but where he had Mr. Butler saw no reason why the woman should not be able to recover the money owing to her from that form of property.

Part II dealt with the attachment of earnings. It enabled a court by which a maintenance order was enforceable—which might be the High Court, the county court or the magistrates' court—to make an attachment of earnings order if, but only if, payments under the maintenance order were in arrears to the extent of four weekly payments or two payments due at other intervals. The attachment of earnings order would specify a normal deduction rate and a protected earnings rate. The order would require the employer to make deductions from the man's earnings at the normal deduction rate unless by so doing it would reduce the take-home pay of the man below the protected earnings rate.

The normal deduction rate would be the rate at which the court thought the man's earnings should be applied for the purpose of satisfying the maintenance order and paying off arrears and costs. The protected earnings rate would be the rate below which the court considered the deduction should not be allowed to reduce the man's take-home pay. So in fixing the protected earnings rate, the court had to have regard to the man's resources and needs and to the needs of persons for whom he had to provide. In other words, if a man had acquired a second family, the court had to have regard to the needs of that family as well as to those of the beneficiary under the maintenance order. He did not think, therefore, that in practice that would work out inhumanly or unfairly.

If a man did not want his employer to know that there was a maintenance order against him, he could ensure that no attachment order was made by making regular payments. Under cl. 6 a court could not make an attachment order unless a man was the equivalent of four weeks' payments in arrears. It was found in Scotland that the fact that a man's wages could be "arrested," as they called it, encouraged him powerfully to pay up, and it might be found that the courts did not actually have to make orders in more than a small proportion of the cases. He added that they had decided to omit merchant seamen altogether from the scope of the Bill, because it had been represented to them that it would be a matter of the greatest practical difficulty to apply a system of attachment to them.

REVIEWS

The Sexual Offences Act, 1956. With introduction and annotations by C. Bruce Orr, Barrister-at-Law. Consulting Editor, Leslie Boyd, Clerk of the Court, Central Criminal Court, Barrister-at-Law. London: Butterworth & Co. (Publishers) Ltd., 88 Kingsway, W.C.2. Price 25s. net., postage 1s. 1d. extra.

This is a reprint from the well-known series, *Butterworths Annotated Legislation Service*. The Act, a consolidation statute, was long overdue, but as the editor states in his preface, opportunity has not been taken to correct anomalies and weaknesses which will no doubt receive further consideration. In the meantime, this handy volume will be of great assistance. The law on the subject often presents difficulties, and here are to be found the relevant cases as well as full notes to the sections of the new statute with ample cross-references.

The plan of the book is excellent. After a general introduction, which is itself conveniently divided under separate headings, comes the statute itself with its valuable annotations. This is followed by a digest of cases in which, in the words of the editor, " it is hoped that the practitioner may find at least guidance as to his requirements without having to wade through the rather sickening slough of reported cases on the subject."

We confidently recommend the book to practitioners, clerks and police officers. It will help them to find the solution to many of their problems.

Knight's Annotated Model Byelaws. Volume II. By A. N. C. Shelley, M.A., B.C.L., Barrister-at-Law. London: Charles Knight & Co., Ltd. Price £2 2s. (plus 1s. 9d. postage and packing).

This is the eleventh edition of a work which cannot fail to be commended. Dr. C. Roland Woods, former Director of Codes and Practice in the Ministry of Works, who held, for a member of the bar, the unusual distinction of being also a structural engineer, was former editor. Unfortunately, however, while the earlier volume was in course of preparation, the editor died in 1953 while it was still uncompleted. The earlier volume dealt with new model building byelaws—on the subject of which Dr. Woods was an acknowledged authority. The publishers are fortunate in obtaining such a worthy successor, for the high standard of earlier editions is well maintained in this soundly executed work. The volume is arranged in separate series which makes for great facility in reference, and covers the whole field of model byelaws in general use. The note in the preface by the present learned editor, tracing the history of model byelaws, will add to the usefulness of the volume as a whole.

Social Welfare and the Citizen. Edited by Peter Archer, with sections by J. E. Siddall, Jean Graham Hall, Betty D. Vernon and others. London: Pelican Books. Price 3s. 6d.

This is a paper back which is described on the back cover as an attempt, within the space available, to give a bird's-eye-view of social welfare in Great Britain. Intended primarily for the lay reader, we would say that speaking generally this objective is attained. Part of the difficulty invariably encountered by a book of this type is that alterations to statute law and to delegated legislation are taking place all the time, with the result that some sections of it become out of date so soon. Whereas this holds no perils for the lawyer, the average layman would not realize this and possibly continue to use it for reference purposes five or 10 years after he has bought it (although it is true that a warning is given on a fly-leaf). Be that as it may—the book is remarkably comprehensive, and as a guide to the fabric of the welfare state should be found of great use by those for whom it is intended.

Kent County Constabulary Centenary Book. Published by the Centenary Booklet Sub-Committee of the Kent County Constabulary: Edited by R. L. Thomas. Price 5s. Police Headquarters, Sutton Road, Maidstone.

The Kent Constabulary was founded on January 14, 1857, with Capt. J. H. Ruxton as chief constable and an approved establishment of 222 officers and men. On December 31, 1956, the authorized establishment was 1,743 men and 45 women. This book tells something of the growth of the Force, and in doing so makes us realize yet once again that the police in this country are not a race apart but are normal citizens doing as their job in life something which is the duty of every honest citizen when the need arises. How times have changed; in the early years of the force there was no period of instruction, " practically any hefty and healthy looking young man of known honesty was accepted and put into uniform to begin duty next day, possibly receiving some direction from another constable for a day or so."

The original detective branch was formed in 1896 and its members were very much in the background, every effort being made to prevent the public from knowing that they were police officers. Their duty was to make all possible inquiries but not to appear in court themselves. They passed on their information to the officer in charge of the division concerned with the case. The book details the advantages enjoyed by the modern detective with the various scientific aids which are now available and there is the comment that if he keeps all the essentials in mind, if he refuses to be side-tracked and marshals his array of little facts until they provide an overwhelming inference he will make some good captures " and after he has given his evidence he may have the satisfaction of seeing the culprit severely bound over."

Police work is dealt with in the book under different headings. There is interesting information about the part played by the force in two world wars in which the county had more than its share of attention from the enemy. We have enjoyed reading this book and we think that many readers will share our pleasure.

PERSONALIA

APPOINTMENTS

Mr. Denis B. Harrison, deputy town clerk of Warrington, has been appointed deputy town clerk of Bolton. He succeeds Mr. A Blakemore who is going to Stockport as its town clerk. Mr. Harrison is 40 years of age. He was admitted in 1939. About seven years later he became the assistant solicitor to Birkenhead and soon after that appointment he moved to Wolverhampton as third assistant solicitor. Later he was appointed first assistant solicitor with the same authority and was in that post until 1949, when he moved to Warrington. Mr. Harrison served in the Forces from 1939 to 1946.

Mr. N. H. Wilson, solicitor to Widnes corporation, has been appointed deputy town clerk for Widnes in succession to Mr. D. Willgoose, who has been appointed town clerk to Huyton-with-Roby urban district council, *see* our issue of October 26, last.

Mr. Robert A. Winch, D.P.A. (Lond.) has been appointed to succeed Mr. Sydney Astin as clerk to East Barnet urban district council, *see* our issue of December 7, last. Mr. Winch is at present deputy clerk of East Barnet council. From 1950 to 1955 he was chief assistant solicitor to Southgate borough council, and was previously employed by St. Marylebone borough council. He was admitted in 1949.

Chief Superintendent K. M. Wherly, deputy chief constable of Plymouth, has been appointed chief constable of Walsall. Chief Superintendent Wherly, who is 45, began his career in 1933 with the Plymouth force, and has served there throughout the ranks. He takes up his new duties on January 13, next.

Police Superintendent George Woodcock, in charge of the Harrogate division, has been appointed chief superintendent for the Rotherham division of the West Riding of Yorkshire constabulary.

Mr. John Morris Rogers has been appointed registrar of the Dolgelley and Bala and Corwen, Merionethshire, county courts in succession to the late Mr. A. Williams.

Miss A. M. Grandi, formerly a Home Office trainee, has been appointed a probation officer in the Berkshire probation area and took up her duties on December 2, last. Miss Grandi succeeds Miss D. M. Holt who, after six and a half years' service in Berkshire, has left to take up an appointment as a community development officer with the Government of Uganda.

OBITUARY

Judge George Clarence Allsebrook, whose death has occurred at the age of 80 years, retired in 1950 after 16 years as Judge of the

county court circuit No. 3 covering Cumberland, Westmorland and the Furness district of Lancashire. He took his M.A. at Trinity College, Oxford, and was called to the bar of the Inner Temple in 1913, joining the Midland Circuit. While county court Judge, he has also acted as Divorce Commissioner and, after his retirement in 1950, he continued as chairman of the Cumberland quarter sessions until just before his 75th birthday and had also acted as chairman of the Westmorland quarter sessions at one time.

Mr. Josiah Taylor, solicitor and clerk to Ormskirk, Lancs., urban district council for more than 20 years, has died. Formerly assistant solicitor and deputy town clerk, Dover, and principal assistant solicitor, Nottingham, he joined Ormskirk urban district council in 1937. He was due to retire on January 22 next, on reaching the age of 65. Mr. George Williams, deputy clerk to the council, has been appointed to succeed Mr. Taylor. Mr. Williams, who joined Ormskirk in 1927, was promoted deputy clerk in February of this year.

Lt.-Col. William Reginald Harvey Whiston, clerk to the Derby magistrates from 1922 to 1945, has died at the age of 87. He was a member of a legal family which began practice in Derby in 1779; his great-grandfather, grandfather and father were all clerks to local magistrates.

Mr. D. J. Beattie, former town clerk of Penzance, has died in hospital at the age of 46. Mr. Beattie was admitted in October, 1932. He was an assistant solicitor at Accrington from 1932 to 1934, and then became assistant solicitor to the borough of Colne where he remained until May, 1935. His next appointment was as assistant solicitor at Beckenham, Kent, until May, 1937, when he became deputy town clerk of Bedford which post he held until August, 1942, when he went to Penzance as town clerk. Mr. Beattie retired on May 1, 1955, on account of ill-health.

TIME MARCHES ON

"These divisions of time are purely arbitrary," says Nanki-Poo, in *The Mikado*. "Who says 24 hours make a day? We'll call each second a minute—each minute an hour—each hour a day—and each day a year. At that rate we've about 30 years of married happiness before us!" "And at that rate," replies the irrepressible Peep-Bo, "this interview has already lasted four hours and three-quarters!"

That, of course, is the trouble with popular conventions, however ill-conceived. Disregard them, and everything at once begins to fall out of place. In our calendar, it is true, the weeks correspond to no natural event—nor do the months, despite their strange incongruities in length. Owing to irregularities in the movements of the earth, the time it takes to rotate the full course of 360 degrees, in relation to the sun, varies from time to time during the year, and the "mean solar day" of 24 hours is only a rough approximation; while the "sidereal day," according to our reckoning, works out to the untidy figure of 23 hours, 56 minutes and 4·091 seconds of mean solar time.

Worst of all, our calendar year, which begins (arbitrarily) on January 1, bears no relation to any natural phenomenon, neither solstice nor equinox, nor to any particular season of the year or day of the week. And, even if we accept the mean solar day as a unit, the length of the year is inaccurately calculated; for the earth completes its orbit in 365 days, 5 hours, 48 minutes and 46 seconds. The Julian Calendar, trying to correct the error by the addition of one day in every four years, found itself in trouble by the sixteenth century, when Pope Gregory XIII (in 1582) was driven to adopt the clumsy device of dropping 10 days and omitting the intercalations in all the centenary years except those which are multiples of 400. (British insularity refused to adopt the New Style for a further 170 years). As it is, we shall still (the Astronomers tell us) be one day out in every 3,323 years, and further corrections are to be made by counting as leap-years A.D. 4000 and all multiples thereof. It is in truth a strange system, at once inaccurate and complex, and calling every few centuries for improvization and readjustment.

Ages before the Julian Calendar was instituted, in 46 B.C., other systems were in vogue among the Egyptians, the Hebrews and the Chinese. Strangely enough, one of the most precise of all the ancient systems was that of the Mayas of Mexico; while recent discoveries at Tiahuanaco, near Lake Titicaca in the Andes, on what is now the borderland between Bolivia and Peru, reveal a surprisingly accurate knowledge of astronomy and mathematics among the early inhabitants of that region. Fascinating theories have been built upon the resemblances between the scientific learning, on the one hand, of Ancient Egypt and the Mediterranean World and, on the other, of the lost civilizations of Central and South America. Some would have it that the connecting link was the legendary Island of Atlantis, which, Plato tells us, was once situated in the Ocean to the west of the Pillars of Hercules (now the Straits of Gibraltar)—"an island larger than Libya and Asia combined." And the story of the Great Flood that engulfed Atlantis and destroyed a civilization earlier, and more refined and sophisticated, than those of Egypt and Greece, is being accepted by some cosmographers as descriptive of some vast natural cataclysm ten thousand years or more ago.

Such research makes strange reading of the traditional date and time for the Creation—11¼ minutes past 11 p.m. on the night of October 7, B.C. 3761. Precision is vital in any system of chronology, and nobody can complain that that virtue was neglected by those who worked out a calculation of this kind. Be that as it may, and be the current conventions as arbitrary as they will, few of our readers will be deterred from celebrating the transition at midnight on Tuesday next. And to all of them we offer our fervent wishes for a very Happy New Year.

A.L.P.

NOTICES

The next court of quarter sessions for the borough of Southend-on-Sea will be held on Thursday, January 2, 1958, at the Sessions House, Alexandra Street, Southend, at 10.30 *a.m.* The adjourned sessions will be held on Monday, January 27, 1958, at 10.30 *a.m.*

The next court of quarter sessions for the county of Cumberland will be held on Tuesday, January 7, 1958.

The next court of quarter sessions for the county of Cheshire will be held on Wednesday, January 8, 1958, at The Castle, Chester.

The next court of quarter sessions for the county of the Isle of Ely will be held on Wednesday, January 8, 1958, at Wisbech.

The next court of quarter sessions for the borough of Folkestone will be held on Saturday, January 11, 1958.

BOOKS AND PAPERS RECEIVED

Differential Rents. By R. A. Emmott. The Institute of Municipal Treasurers and Accountants, 1, Buckingham Place, S.W.1. Price 7*s.* 6*d.* post free.

NOW TURN TO PAGE 1

In proceedings under the Road Traffic Acts dealt with by the making of a probation order or an order of absolute or conditional discharge there may not also be a disqualification of the defendant for holding a driving licence. (Criminal Justice Act, 1948, s. 12 (2).)

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Adjournment of proceedings to obtain medical report from remand home in non-criminal proceedings.*

Is there power for a juvenile court to remand a child or young person to a remand home for a medical examination other than during the hearing of a charge against that child or young person?

I am concerned with a case where a young person has been brought before the court by the education authority under s. 40 of the Education Act, 1944, and it is proposed to remand the young person for a medical report.

It seems very doubtful to me whether there is power to do this as no offence has been committed. Section 48 of the Children and Young Persons Act, 1933, seems to imply that there is power to remand (subs. (3)) but otherwise the power to remand seems to be only available in criminal matters.

KOROK.

Answer.

The power of the court in such circumstances is to make an interim order to a place of safety under s. 67 (2) of the Children and Young Persons Act, 1933. "Place of safety" is defined in s. 107 of that Act to include, *inter alia,* any remand home.

2.—Criminal Law—*Forgery Act,* 1913, *s.* 7—*Obtaining "the right to travel" by means of forged railway ticket.*

AB has been charged "for that he, at X, on November 17, 1956, with intent to defraud, obtained from the British Transport Commission the right to travel on the railway between X and Y, to the value of 12*s.* 10*d.*, by virtue of a certain forged instrument, namely, a railway ticket from X to Y upon which the date had been forged, knowing the same to have been forged. Contrary to s. 7 of the Forgery Act, 1913." The facts which the prosecution are able to prove are that the defendant obtained a ticket on November 3 available on the day of issue only for a journey from X to Y but did not surrender the ticket at Y. On November 17 he again made the journey from X to Y, the date on the ticket having previously been forged from November 3 to November 17, and surrendered the ticket with the forged date to the ticket collector at Y, and that the defendant knew that the date had been forged. The prosecution are not able to prove that defendant forged the date.

The offence was not discovered until after six months, so that the prosecution are not able to charge the defendant with the summary offence of travelling on the railway without previously paying his fare and with intent to avoid payment thereof. There is quite clearly an offence disclosed of uttering a forged ticket at Y but the prosecution have preferred the charge under s. 7 in the hope that the defendant will elect to be tried summarily and so avoid committal proceedings.

Section 7 reads "every person who . . . demands, receives or obtains . . . any money, security for money or other property, real or personal . . ."

The right to travel on the railway between X and Y is presumably a "chose in action" and would therefore come under the definition of personal property. I can find no authority for saying that for the purpose of the Forgery Act personal property must be a chattel. I would therefore welcome your opinion as to whether I am right or not and for your advice generally.

GURNA.

Answer.

It is clear that the offence of uttering a forged document with intent to defraud is disclosed by the facts. It is by no means certain that the present charge is equally appropriate. We are inclined to think that the "property real or personal" contemplated by the Act is something more tangible than "the right to travel." If s. 7 were meant to cover cases such as this, there would have been no need to create the summary offence of using a defaced ticket with intent to defraud.

3.—Magistrates—*Practice and procedure—Appeals to quarter sessions—Powers of appeals committee on hearing appeal against conviction.*

Section 83 (1) of the Magistrates' Courts Act, 1952, provides that a person convicted by a magistrates' court may appeal to a court of quarter sessions if he pleaded not guilty against the conviction or sentence.

In a recent appeal to quarter sessions against conviction, doubt was expressed as to whether the appeal committee had power to vary the sentence, as no appeal had been made against sentence.

Personally I am of the opinion that an appeal against conviction involves the case being heard *de novo* and consequently the court have power to vary the sentence as they may deem appropriate. This view seems to be supported by the provisions of s. 1 of the Summary Jurisdiction (Appeals) Act, 1933.

This situation must arise frequently, and your opinion would be appreciated.

FIRAS.

Answer.

The substituted s. 31 of the Summary Jurisdiction Act, 1879, in s. 1 of the Summary Jurisdiction (Appeals) Act, 1933, provides that: "quarter sessions may by their order confirm, reverse or vary the decision . . ." We agree with our correspondent that in the case of an appeal against conviction, when there is a hearing *de novo,* quarter sessions, if they confirm the conviction, can vary the sentence. "Decision" must mean the whole order of the magistrates' court, *i.e.,* the conviction and the sentence.

4.—Magistrates—*Practice and procedure—Magistrates' Courts Act,* 1957—*Defendant attends and pleads not guilty—Right to refer to the statement of facts.*

A, the prosecutor, adopts the new procedure and serves on the defendant forms 1 and 2 in the schedule to the rules. If the defendant pleads not guilty can any reference be made to the "statement of facts" by either party at the hearing? I have in mind the defence seizing on some divergence between what is contained in the statement of facts and the evidence tendered at the hearing and seeking to use it.

Section 1 (1) (ii) of the Act requires only a "concise statement" of the facts to be served for use "if the accused pleads guilty without appearing before the court." If the defendant does appear and pleads not guilty the purpose for which the statement of facts was served no longer applies, so far as I can see.

JOWBER.

Answer.

In our view when the defendant pleads not guilty the case should be determined on the evidence given by the witnesses, and the statement of facts, which does not purport to be the statement of any particular witness but a summary of the facts of the case, is inadmissible and should not be referred to.

5.—Public Health Act, 1936—*Common cesspool—Obligation to cleanse.*

A terrace of 16 houses has drains emptying into one cesspool. The council empty this cesspool every 14 days. For some time past the cesspool has become full on the eighth or ninth day after emptying and consequently overflows. The obvious remedy is either to construct another cesspool adjoining and connect to the existing cesspool, or for the existing cesspool to be emptied during alternate weeks by some person other than the council. Do you think notices should be served under s. 39 or s. 50 of the Public Health Act, 1936; if so, should they be served upon the owners or the occupiers of the premises served by the cesspool?

PARAY.

Answer.

The query does not show that the cesspool is insufficient within the meaning of s. 39 of the Public Health Act, 1936. There is in any event some awkwardness about applying s. 39 to a cesspool receiving effluent from more than one building: *see Lumley's* note (*d*) to s. 39 (1), and it would equally be difficult to establish any person's default if the cesspool overflowed. What is insufficient is the council's performance of the service which (we infer) they have undertaken under s. 72, and they seem to be open to proceedings under s. 72 (2) if, as suggested in the query, they try to make the owner or occupiers undertake the cleansing in intermediate weeks.

6.—Public Health Act, 1936—*Piped but inadequate water supply—Owner's liability.*

The piped water supply to a house occupied by a tenant has dwindled to such a degree that it is now insufficient for the domestic purposes of the occupants. The water undertakers are a joint board. Will you please advise whether the council should proceed against the owner or the board, and cite the appropriate

legislative power in either event. Sections 92 and 138 of the Public Health Act, 1936, do not seem to apply. PYLIS.

Answer.

The pipe fails to deliver a supply of water sufficient for the domestic purposes of the occupants. It may have been fractured, or corroded through being of unsuitable metal, or the pressure may be too low. Whatever the cause, the result seems to be squarely within the opening words of s. 138 (1) of the Public Health Act, 1936, as amended by the Water Act, 1945. If the council are still satisfied that that section does not meet the case, they might consider whether the house is unfit for human habitation, within ss. 4 and 9 of the Housing Act, 1957, but we prefer the specific power of the Act of 1936, with its recourse to the magistrates' court.

7.—Road Traffic Acts—*Pedestrian crossing—Woman pushing perambulator—Perambulator on crossing while woman still on pavement—Precedence.*

I have been informed that the police intend to bring in one of my divisions a case in which they will allege a breach of reg. 4 of the Pedestrian Crossing Regulations, 1954, based on evidence that at the material time a perambulator being pushed by a woman was on the carriageway within the limits of an uncontrolled crossing before the defendant's vehicle or any part thereof had come on to the carriageway within those limits. The evidence, I understand, will further be to the effect that the woman was at the material time not on the carriageway but was on the pavement.

There is a note in the 1957 edn. of *Stone* on p. 2914 referring to a Scottish decision of *MacKerrell* v. *Robertson*, the facts of which appear to coincide with the proposed case to which I have referred.

I am unfortunately unable to obtain a copy of this Scottish decision and I would be most grateful for any advice that you felt it possible to give me on this matter.

Construed strictly, it would appear that the regulation requires that the foot-passenger should be on the carriageway before any breach can be committed. The Scottish court, however, appear to have defined "foot-passenger" as including a "go-chair" which was being pushed by a woman.

It is somewhat surprising that this matter has not been clarified in the regulations because there are a number of people apart from mothers who push vehicles in front of them, *e.g.*, barrow boys and window cleaners. Whilst in the end I appreciate that I shall have to make up my mind in this matter and advise the justices one way or the other, I should be greatly obliged for any assistance which you could give me and if you would be prepared to state your personal opinion as to which way the advice should be given and to state your reasons for it, it would be most helpful. LOSVEN.

Answer.

A woman pushing a perambulator is, in effect, inseparable from it. She must get it on to the crossing before she can step on to the crossing, and we consider that she should be treated as being "on" the crossing as soon as she has pushed the perambulator on to it. It is the custom of the High Court in this country, in matters concerning litigation which is common to both countries, to have regard to decisions of the Scottish High Court unless they feel obliged to differ from them. With no English decision to guide them we think that an English magistrates' court is entitled to take notice of the decision in *MacKerrell* v. *Robertson, supra,* and to interpret the regulation accordingly.

8.—Road Traffic Acts—*Vehicle lights—Exemptions—Vehicles on authorized parks or hackney carriage stands—Vehicles standing without lights in roads parts of which are car parks or hackney carriage stands.*

Discussion has occurred with my colleagues in connexion with the Road Vehicles Lighting (Standing Vehicles) (Exemption) (General) Regulations, 1956.

As you are aware, by reg. 28 of the Road Vehicles Lighting Regulations, 1954, a chief officer of police could, if satisfied that part of a road had been set aside as a parking place or hackney carriage stand and if adequately illuminated, exempt vehicles using that parking place from showing obligatory lights.

Regulation 1 (2) of the Road Vehicles Lighting (Standing Vehicles) (Exemption) (General) Regulations, 1956, revokes the 1954 Regulations. In the explanatory note of the 1956 Regulations it indicates that reg. 6 is a *re-enactment* of reg. 28.

There appear to be discrepancies between the provisions of the revoked reg. 28 and the existing reg. 6 of the 1956 Regulations as (*a*) reg. 28 stipulated that the chief constable must be satisfied as to proper lighting. Regulation 6, however, makes no reference to lighting; and (*b*) reg. 28 did not restrict the class or type of vehicle permitted to stand on a park without obligatory lights, whilst an exemption under reg. 6 of the 1956 Regulations is restricted to those vehicles as described in reg. 2, *i.e.*, (*a*) "a goods vehicle" unladen weight not exceeding two *tons*; and (*b*) "a passenger vehicle" of not more than seven seats exclusive of the driver, etc.

Certain of my colleagues contend that as reg. 1 (2) of the 1956 Regulations revokes reg. 28 all existing exemptions granted under the revoked reg. 28 are without effect. This may be supported by the restriction now placed on the type of vehicle classified in the 1956 Regulations. Another suggestion is that exemptions granted under the old reg. 28 are still valid. If this is the case, then it seems the fantastic situation would arise of having the provisions of one regulation allowing certain types of vehicles to wait on a car park without obligatory lights whilst under another regulation there being no restriction on the particular class of vehicle.

The provisions of reg. 4 have also been discussed thoroughly. This particular regulation states *for the purpose of that regulation "road" does not include any part of a road specially set aside for the parking of vehicles, etc.* It is contended, therefore, that the provisions of reg. 4 cannot apply to any road of which part has been set aside as a car park or hackney carriage stand.

I would be extremely grateful for your observations on the points raised, which I think may be summarized as follows:

(*a*) Do you consider that exemptions granted under the now revoked reg. 28 of the 1954 Regulations cease to be valid and should be replaced in every instance by an exemption under reg. 6 of the 1956 Regulations.

(*b*) If it is considered that exemptions made under the old reg. 28 are still operative, then it would appear that no restrictions are placed on the type of vehicle using a car park with an exemption under reg. 28, whilst vehicles using a car park exempt under reg. 6 are restricted to those prescribed under the existing regulations.

(*c*) Do you consider that the provisions of reg. 4, *i.e.*, permitting the parking of vehicles without lights within 25 *yds.* of a lamp post, etc., do not apply to any road of which part of it has been set aside as a car park or hackney carriage stand? KIDOR.

Answer.

(*a*) and (*b*) Although it may well be that some consents given by chief officers of police under the revoked regulation are in such terms as to remain valid under reg. 6 (that regulation does not require that a consent be given, in terms, under its provisions), the question of which vehicles are entitled to exemption from the normal requirements as to lights is now governed by reg. 6 of the 1956 Regulations. Any person responsible must be able to show, on or after June 5, 1956, that the vehicle is one exempted by virtue of reg. 6; he cannot rely on the provisions of a regulation which has been revoked.

(*c*) We think that reg. 4 excludes only those parts of a road specially set aside for the parking of vehicles or as a stand for hackney carriages and that the regulation can be applied to other parts of such a road. It will be noted that "road" is defined to include part of a road.

9.—Town and Country Planning Act, 1947—*Temporary permission expired—Enforcement action.*

An owner of land was refused planning permission for a caravan, and on appeal to the Minister of Housing and Local Government permission was granted for two years. At the end of this period application for retention was made and granted for one year. When this period had expired an enforcement notice was served, but before the notice took effect an application for permission for retention was made. This was refused. So far no appeal has been made to the Minister of Housing and Local Government or to the magistrates' court or, of course, to quarter sessions.

Doubtless by confusing references (s. 15) with appeals (s. 16) a councillor insists that the decision of the Minister of Housing and Local Government is final; that any step after the above appeal is not available, and that if this is not so there is no finality to the number of applications that may be made. A contrary opinion is that any number of applications may be made and the same number of appeals to the Minister of Housing and Local Government, and that the later steps mentioned above may be taken. PINGOS.

Answer.

An application for permission for retention is an application for permission to develop land; *see* s. 18 (1) of the Town and Country Planning Act, 1947, and we therefore agree with the latter view expressed.

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